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PAPER

Solidarity, justice and unconditional access to healthcare

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ABSTRACT

Luck egalitarianism provides a reason to object to conditionality in health incentive programmes in some cases when conditionality undermines political values such as solidarity or inclusiveness. This is the case with incentive programmes that aim to restrict access to essential healthcare services. Such programmes undermine solidarity. Yet, most people's lives are objectively worse, in one respect, in non-solidary societies, because solidarity contributes both instrumentally and directly to individuals' well-being. Because solidarity is non-excludable, undermining it will deprive both the prudent and the imprudent citizens of its goods. Thereby, undermining solidarity can make prudent citizens worse off than they would have otherwise been, out of no fault or choice of their own, but rather as a result of somebody else's imprudent choice. This goes against the spirit of luck egalitarianism. Therefore (luck egalitarian) justice can require us to save the imprudent and avoid conditionality in access to essential healthcare services.

INTRODUCTION

The main thesis of this paper is that luck egalitarianism provides a reason to object to conditionality in health incentive programmes in some cases when conditionality undermines political values such as solidarity or inclusiveness. In particular, I am concerned with incentive programmes that aim to restrict access to essential healthcare services. This claim may come as a surprise: luck egalitarianism, which is one of the most influential contemporary conceptions of justice, claims that it is unfair, and thereby unjust, if some people are worse off than others as a result of brute luck, that is, independent of their own fault or choices; by contrast, inequalities resulting from option luck are not deemed unjust. Thus, luck egalitarianism tends to be seen as, and criticised for, being an ally to policies that link benefits to individual responsibility.[1] As such, it appears to provide liberal egalitarians a *pro tanto* reason to support health incentive programmes that condition access to healthcare.[2] Some luck egalitarians are indeed critical of conditioning access to healthcare, but they draw their reasons from values other than fairness.[3] Other scholars explain why appeal to individual responsibility, and hence to luck egalitarianism, cannot always support conditionality in access to healthcare by pointing to real world circumstances in which beneficiaries do not enjoy their fair share of resources in the first place[4] and do not make their health-related choices in circumstances in which they can be held appropriately responsible.[5] In contrast with these approaches, and drawing on previous work, I claim that luck egalitarianism can generate (defeasible) reasons to reject conditionality, that is, without appealing to unjust circumstances or to values extrinsic to justice. A plausible understanding of luck egalitarian justice includes the protection of one category of goods which are relational and political and which, I have argued, display a feature of public goods: non-excludability.[6] In this paper, I am mostly concerned with one such good: solidarity; but the same line of reasoning can be extended to non-discrimination and non-marginalisation. Conditional access to healthcare can undermine all of them: some health incentive programmes function by excluding non-compliers from benefits. When the benefits in case are necessary for the satisfaction of morally weighty interests, the exclusion of some individuals either constitutes an attack on solidarity, or contributes to its erosion. And sometimes the design of the health incentive programme results in the marginalisation or discrimination of certain groups. Luck egalitarianism has resources for objecting to such programmes.

The argument I defend has the following form, from premises (P1 to P5) to conclusions (C1 to C4):

P1. People ought not to be made worse off than others through no fault or choice of their own (=luck egalitarianism).
P2. Conditioning access to essential healthcare services means abandoning the imprudent, hence undermining solidarity.
P3. Solidarity is a non-excludable good.
P4. Solidarity contributes to well-being.
C1. Hence, from P2, P3 and P4, we cannot condition access to essential healthcare services without making the prudent too worse off in one respect.
C2. But, from P1, luck egalitarianism cannot require to make the prudent worse off.
P5. Increases in well-being are desirable (=efficiency).
C3. Hence, from C2 and P5, justice requires that we sometimes rescue the imprudent.
C4. Hence, from P2 and C3, conditioning access to essential healthcare services is sometimes unjust.
C2 is ambiguous between saying either:

(a) that luck egalitarianism should sometimes oppose conditionality in healthcare because this would make the prudent worse off in one

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respect (by undermining solidarity) out of no fault of their own;

or:

(b) that luck egalitarianism will be indifferent between making access to healthcare conditional and thereby making everybody worse off in one respect (by undermining solidarity) and making access to healthcare unconditional and thereby making everybody better off in one respect (by preserving solidarity).

As I shall explain, some luck egalitarians will side with (a). For those who side with (b), additional appeal to efficiency in P5 will lead to the same conclusion C4.

I begin with a brief explanation of health incentive programmes and of how particular such programmes can result in the frustration of morally weighty interests, or in the discrimination and marginalisation, of some groups of people. I then turn to one of the above-mentioned political relational goods: solidarity. Solidarity made the object of some recent discussions in the ethics of health, but it is still unclear what is its proper place in the normative assessment of health policies.[7] I argue that living in a solidarity-based society is better for individuals both intrinsically and instrumentally, and therefore that solidarity is plausibly understood as one of the goods that individuals owe each other on grounds of justice. But solidarity cannot be preserved if communities refuse to help individuals who behave—or are perceived to behave—irresponsibly. Therefore, making certain health benefits conditional on particular behaviours will undermine solidarity, depriving *all* citizens of this political good. This can generate a luck egalitarian reason to oppose conditionality in access to basic healthcare. The last part of the paper explores a difficulty faced by luck egalitarians who oppose conditionality in the distribution of healthcare: the preservation of solidarity (and of other political relational goods) will diminish the degree to which luck egalitarian justice can track responsibility, including responsibility for one's health.

HEALTH INCENTIVE PROGRAMMES AND CONDITIONALITY

Different agents can engage in a variety of actions meant to improve the health of (groups of) individuals by providing them with incentives. Here are a few examples: governments can condition access to certain state-sponsored healthcare services on the recipients' behaviour, or can regulate the labour market with the aim of protecting the employees' health; for instance, they can require that fashion models produce a medical certificate attesting they are not under-weight before they can be employed. Employers can facilitate their employees' easy access to a professional who assesses the healthiness of employees' lifestyle and offers health advice; they can also introduce tests meant to establish the consumption of unhealthy substances and make certain benefits dependent on negative results. And individual grocery shops and cafeteria managers may place healthy products strategically to encourage their consumption. This paper is restricted to the luck egalitarian evaluation of actions which, like some of the above examples, make access to health benefits conditional on compliance with certain rules. Further, my concern is only with health incentive programmes initiated and supervised by governments because the state is the uncontested (and according to some philosophers, the sole) agent of justice. I discuss state-mandated health incentive programmes and raise an objection of justice against some of these.

Consider, for example, West Virginia's Mountain Health Choices programme, whose aim is to distribute medical services to adults and children from low income families.[8] The programme has been approved in May 2006, as a modification of the benefits available to individuals on Medicaid. After its introduction in March 2007, health services available to low income individuals got divided into unconditional services—the 'basic plan'—and services conditioned by membership in an 'enhanced plan'. Some of the services available exclusively to adults enrolled in the enhanced plan—that is, only conditionally available—are diabetes education, nutrition education and weight management programmes, cardiac rehabilitation, chiropractic care and clinic or rehabilitation mental health services that are provided by community-based behavioural health centres. The basic plan includes strict limitations on prescription drugs, home healthcare, ambulance services and occupational, speech and physical therapy, all of which are available more generously to those enrolled in the enhanced plan. But, enrolment into the enhanced plan is itself conditioned by enrollees' compliance with 'healthy behaviours' such as attending appointments with healthcare providers and compliance with doctors' prescriptions. Almost one and a half years after its inception, approximately 93% of adults and 92% of children were enrolled in the basic plan, but only 6.8% of adults and 7.7% of children were enrolled in the enhanced plan.[8]

There are many aspects of the Mountain Health Choices programme to which luck egalitarians would object. First, it is far from clear that the current level of social inequality in the USA can be sanctioned by luck egalitarian justice; if so, the worst off members of the society, that is, the users of the Mountain Health Choices programme—and, more generally, of Medicaid—are actually owed more, and not less, than what they currently have. Budgetary cuts that affect healthcare provisions for the worst off by introducing conditionality represent a form of wealth redistribution that further disadvantages those who are already unjustly disadvantaged; therefore, it is, by luck egalitarian lights, impermissible.[5] Second, the Mountain Health Choices programme has been criticised for imposing unreasonable requirements on enrolees,[9] which means that it fails to track their responsibility in a relevant way.

Above and beyond these grounds to oppose the Mountain Health Choices programme, there is another reason to criticise it, internal to luck egalitarianism. Imagine the programme was introduced in a more egalitarian society and contained requirements that could reasonably be met by its addressees. European governments, for instance, consider the possibility of introducing health incentive programmes to improve diets and levels of exercise.[10] It is not yet clear whether the incentives would work by introducing conditional access to some health services and, if so, to which kind of health services; nor is it clear whether such programmes have the potential to erode public health insurance. But if they make essential health services conditional, then luck egalitarians ought to oppose them because this would undermine political relational goods. (For more luck egalitarian reasons to support public health insurance, see Carl Knight's recent work.)[11]

In the case of Mountain Health Choices, conditionality means that those individuals who fail to enrol in the enhanced plan will be denied healthcare as basic as diabetes education and cardiac rehabilitation, thus leaving them with unfulfilled basic needs. Failing to meet people's basic needs is usually seen as a failure of humanity or beneficence rather than one of justice, and, as I explain in the next section, it is also a failure of solidarity. Solidarity is a relational political good which, I shall argue, makes the lives of all individuals in a society go better. Therefore, undermining solidarity is akin to worsening almost everybody's lives, not the lives of imprudent individuals alone. Moreover, conditional programmes tend to rely on decisions made by programme administrators on whether or not individuals comply with the rules, which invite discrimination, and

mark non-compliers as irresponsible, which invites stigmatisation,[4] which is a form of social exclusions. Therefore, conditionality in the allocation of important healthcare services can erode other relational political goods, such as non-discrimination and non-marginalisation.

SOLIDARITY AS A POLITICAL RELATIONAL GOOD

In the remaining of this paper I focus on a relational political good—solidarity—and explain why it is plausible that luck egalitarians ought to promote it. Angus Dawson and Bruce Jennings have noted that solidarity has until recently been mostly ignored by health ethicists. Instead, 'solidarity has just been a tacit value. It has just not been given adequate consideration before, because it has not been part of mainstream discussions in normative ethics, bioethics and public health ethics' (67).[7] Here, I provide an answer to the question of how solidarity should explicitly fit in a general theoretical framework for assessing health programmes.

Although solidarity is now increasingly invoked in health ethics, its meaning is not undisputed. My concern here is with an understanding of solidarity which can pertain between human beings in general rather than with in-group solidarity which, by definition, excludes some individuals; its basic aim is to avoid the suffering which results in the frustration of important human interests. Since I do not engage with the question of the proper scope of justice (national or global), I restrict my discussion to solidarity between individuals that compose a given political community, such as a nation state. This kind of solidarity consists in the disposition to support one's compatriots in the satisfaction of their fundamental interests, for instance, through adequate mechanisms of social welfare.[12] While some argue that solidarity does not necessarily involve costs,[7] the understanding of solidarity I propose involves the willingness to bear costs if this is necessary for the satisfaction of the fundamental interests of others. In this respect, it is similar to the conception of solidarity proposed by Barbara Prainsack and Alena Buyx[13] who argue that solidarity relies on 'a collective commitment to carry "costs" (financial, social, emotional, or otherwise) to assist others' (46). The costs may be material, like those necessary to support social welfare institutions. In other cases, those who display solidarity need to be willing to pay costs in terms of time, energy and the foregoing of other opportunities.

To count as solidarity, the disposition to help others must be morally motivated: the concern for one's fellow citizens' well-being should not be entirely derived from the concern for one's own well-being. Yet, solidarity is not incompatible with self-interested motivation. Again, in the words of Dawson and Jennings, 'What is important is that one party does not act out of expectation of benefit from the other, but out of moral concern for that Other. Mutual self-interest may motivate certain kinds of solidarity, such as when a group is threatened by a joint harm (eg, pandemic, a flood, etc.), but again this is not a necessary condition for an act of solidarity' (74).[7] For the purpose of the present argument, it is important to note that mutual self-interest can include the interest in leading, together, a morally good life. The willingness to bear costs, the moral motivation and the possible convergence of solidarity with mutual self-interest are all features of solidarity that are important for the present argument, as I explain below.

Further, as Dawson and Jennings notice, many contemporary theories put prudential reasons of individuals, taken in isolation, at the centre of normative thinking about justice, to the relative neglect of public goods. Yet, solidarity is itself akin to a public good in one important respect. Like public goods in general, solidarity displays the feature of non-excludability: the scope of solidarity as defended here—that is, solidarity with all individuals who compose that society, rather than solidarity with particular groups—includes, by definition, everybody. A society that systematically fails to provide essential support to some individuals does not count as a solidarity society. In other words, the political good of solidarity cannot be provided only to some: as soon as certain individuals are excluded—in the case at hand, the imprudent—the good itself is undermined.[6]

What is the good of solidarity? First, solidarity is likely to be instrumentally good. Much prominent research has recently indicated that living in societies that are materially very unequal negatively affects everybody's subjective well-being on measures such as physical and mental health and educational achievements.[14] Health, in particular, is negatively affected by large social inequalities: poor people are, on average, in worse health than rich people, and *most* individuals living in very unequal societies are, for this reason, worse off in terms of health.[15] This may be in part because large material inequalities generate hierarchical social relationships of dominance and subordination and undermine solidarity; Fabian Schuppert concluded, from a review of recent empirical literature on the effects of inequality, that social as well as material inequalities are responsible for negative effects on individual welfare.[16] In Europe, countries where unconditional social benefits are more generous have better health on aggregate and less health inequalities, with social cohesion and empowerment being the best indicators for superior results.[15] Whether or not a society realises political relational goods such as solidarity, non-discrimination and non-marginalisation seems to impact on the life quality of all, or most, members of the political community.

Second, whether or not a society displays generalised solidarity matters intrinsically for how the lives of its members go because morally good lives are, other things equal, better lives. This second way in which the political good of solidarity matters to well-being depends on an understanding of well-being according to which it consists in a number of objective goods which may or may not affect the subjective states of individuals, or the satisfaction of their preferences. Not abandoning individuals in extreme need—even if they have brought their misfortune upon themselves—is one of the least disputed, and most basic, moral principles. And on one view, attributed to Socrates, only a morally good life can be a good life. This view is now mostly in disrepute, but a milder version of it remains plausible, that is, that other things equal, it is plausible that one's life will go objectively better if it is morally good.[17] (Which is not to deny that a morally objectionable life can be an *all things considered* good life.) Now, an individual who lives in a world devoid of generalised solidarity cannot avoid being part of a body politic which occasionally abandons some of its neediest members. Such an individual constantly confronts the choice of going ahead with his/her own life and ignore the (often easily preventable) suffering of his/her co-citizens or helping them at increasingly high costs to his/her own well-being. Yet, whatever course of action one takes in such circumstances, one cannot (even if one associates with other individuals), undertake to provide assistance to *all* one's co-citizens who have been excluded from essential health services; for this, one needs institutions that do not make essential help conditional on the patients' behaviour—in other words, institutions that enact the value of solidarity.[6]

SOLIDARITY AND LUCK EGALITARIAN JUSTICE

It now remains to be shown that such institutions are required by luck egalitarian justice, either alone or in conjunction with a

principle of efficiency. Consider the grounds of complaint of a prudent citizen who lives in a society that denies essential medical services to imprudent individuals. Such a citizen may complain about the government's health policy by pointing out that, when systematic, such failure to provide health services to some will erode solidarity. On the longer term, the erosion of solidarity is likely to negatively affect the quality of life of most individuals in that society (as argued above). Moreover, the erosion of solidarity increases the likelihood that this regular citizen will lead his/her life in a society which abandons some of its most needy members. The morally objectionable nature of such a collective decision trickles down, making the life of this prudent citizen morally objectionable to some extent (if he/she chooses to simply ignore the fate of those denied medical services) or, at the very least, presenting him/her with a never-ending stream of morally difficult choices. The claim here is that prudent people's lives are objectively worse in non-solidary societies, both because lack of solidarity instrumentally affects their well-being and because lack of solidarity is a kind of moral failure that can only be effectively addressed by institutional change. Yet, since the exclusion from basic medical services is motivated by the imprudent behaviour of those excluded, the prudent citizen can point out that it is none of his/her fault that *other* people's lack of responsibility has brought about a threat to how well his/her own life goes.

Now, if this complaint is sound, undermining solidarity can make this prudent citizen worse off than she would have otherwise been, out of no fault or choice of his/her own, but rather as a result of somebody else's imprudent choice. This seems to go against the spirit of luck egalitarianism. A luck egalitarian will therefore have two choices: to embrace conditionality in healthcare, thereby undermining solidarity and making the imprudent worse off and also making worse off, in the process, the prudent. Or else, the luck egalitarian must endorse unconditional access to essential health services in order to preserve solidarity and prevent imposing undeserved penalties on the prudent citizens. In either case, the luck egalitarian must allow that some health benefits will fail to track the level of responsibility of one or another group of citizens. While none of the two available courses of action can fully preserve the responsibility-catering feature of luck egalitarianism, the second will promote higher levels of equality. I submit that the second course of action is more in line with the spirit of luck egalitarianism, whose main aim, it has been argued, is to promote equality rather than to reward individuals according to desert.[3] If so, a luck egalitarian should not object to the fact that health and solidarity gains will accrue, undeserved, to the imprudent, if the prudent will thereby be made better off. Luck egalitarians who object to this interpretation will be merely indifferent between saving the imprudent and thereby making the prudent better off and not saving the imprudent and thereby making the prudent worse off, since none of these courses of action is fully responsibility-tracking. They can help themselves to the efficiency principle: when rescuing the imprudent makes the prudent better off, the latter has a claim of justice to this course of action.

This argument requires qualification. Many luck egalitarians believe that the *equalisandum* of justice is overall well-being, such that losses of well-being in one respect can and should be compensated by gains of well-being in other respects. In this case, prudent citizens will not *always* be made worse off, on the whole, by failures of solidarity: if the basic medical services needed to save the imprudent are extremely expensive, or if the number of imprudent individuals is very high, it is possible that the well-being gain of solidarity is smaller than what the prudent gains from making healthcare services conditional.[6] However, some of what makes solidarity valuable—in particular, its moral good—seems incommensurable with the well-being that the prudent gains through conditionality. Therefore, a luck egalitarian who subscribes to a pluralistic metric of justice on which different kinds of goods cannot be easily traded off against each others will be more inclined to preserve solidarity even at a relatively high material cost. In any case, as long as the medical services needed to preserve solidarity are inexpensive, and/or the number of imprudent individuals is relatively small, it is likely that preserving solidarity results in an overall higher level of well-being for all.

Now, as Buyx[18] has argued, solidarity is not only compatible with, but actually requires, some degree of personal responsibility. Solidarity relies on reciprocal care for others' interests, and as such can provide a reason in favour of some kinds of health incentive programmes: those that encourage healthy behaviours without conditioning access to essential health services in cases of non-compliance.

CONCLUSIONS

Conditioning access to essential health services on individual behaviour is objectionable for many reasons, one of which being that it undermines social solidarity as well as other political relational goods such as social inclusion and non-discrimination. But these political goods are both instrumental to, and constitutive of, the well-being of most members of a society, including some who are prudent.

With respect to some goods, such as solidarity, luck egalitarianism cannot require the internalisation of all costs of individual choice, because asking individuals to internalise all the costs of imprudent health behaviour would have unfair consequences for other individuals. Therefore, even in cases when individuals' imprudent health behaviour makes them undeserving of help, tracking irresponsible behaviour need not be the most important aspect of the decision of whether or not to deny them health services. Imprudent behaviour may disqualify individuals from certain entitlements on grounds of fairness, but it does not disqualify them from claims based on need, and hence from claims to solidarity. And all of us who have not lost our claim to solidarity out of our own fault have a powerful, and shared, interest in its protection. To return to the example of the Mountain Health Choices programme, luck egalitarianism can generate a reason of justice against it: by excluding some individuals from basic healthcare services, this programme undermines solidarity. Although the prudent saves some money by denying these services to the imprudent, the undermining of solidarity is likely to make him/her, overall, worse off, out of no fault of his/her own.

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